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|----|------------------------------|------------------------------|--------------|
| 1 | | BEFORE THE | |
| 2 | | ILLINOIS COMMERCE COMMISSION | |
| 3 | IN THE MATTER OF: |) | |
| | |) | No. T16-0069 |
| 4 | VILLAGE OF GARDNER, ILLINOIS |) | |
| | |) | |
| 5 | Petitioner, |) | |
| | |) | |
| 6 | VS |) | |
| | |) | |
| 7 | UNION PACIFIC RAILROAD |) | |
| | COMPANY, and the ILLINOIS |) | |
| 8 | DEPARTMENT OF TRANSPORTATION |) | |
| | |) | |
| 9 | Respondents |) | |
| | |) | |
| 10 | Petition for an Order of the |) | |
| | Illinois Commerce Commission |) | |
| 11 | authorizing the installation |) | |
| | of an at-grade pedestrian |) | |
| 12 | crosswalk, with pedestrian |) | |
| | crossing safety treatments, |) | |
| 13 | at the grade crossing |) | |
| | inventoried as DOT #290518F |) | |
| 14 | (M.P. 64.36) at what is |) | |
| | commonly known as Washington |) | |
| 15 | Street and under the |) | |
| | jurisdiction of the Village |) | |
| 16 | of Gardner, Grundy County, |) | |
| | Illinois (the "Washington |) | |
| 17 | Grade Crossing"), and the |) | |
| | grade crossing inventoried |) | |
| 18 | as DOT #290521N (M.P. 64.63) |) | |
| | at what is commonly known |) | |
| 19 | as Jackson Street and under |) | |
| | the jurisdiction of the |) | |
| 20 | Village of Gardner, Grundy |) | |
| | County, Illinois, (the |) | |
| 21 | "Jackson Street Grade |) | |
| | Crossing"), and the grade |) | |
| 22 | crossing inventoried as |) | |
| | DOT #290519M (M.P. 64.47) |) | |

1 at what is commonly known as)
Division Street and under)
2 the jurisdiction of the)
Village of Gardner, Grundy)
3 County, Illinois, (the)
"Division Street Grade)
4 Crossing").)

5 Chicago, Illinois

6 September 13, 2016

7 Met, pursuant to notice, at
1:30 p.m.

8
BEFORE:

9
MR. TIMOTHY DUGGAN,
10 Administrative Law Judge

11 APPEARANCES:

12 LAW OFFICES OF SCOTT M. BELT &
ASSOCIATES, P.C., by
13 MR. CHRISTOPHER M. DEARTH
105 East Main Street, Suite 206
14 Morris, Illinois 60450
appearing for the Village of Gardner;

15
MR. MACK SHUMATE
16 101 North Wacker Drive, Suite 1920
Chicago, Illinois 60606
17 appearing for the Union Pacific Railroad
Company

18
LAW OFFICES OF SCOTT M. BELT &
19 ASSOCIATES, P.C. by
MR. SCOTT M. BELT
20 105 East Main Street, Suite 206
Morris, Illinois 60450
21 appearing for the Village of Gardner;

22

1 APPEARANCES (continued):

2 MS. JENNIFER KUNTZ
2300 South Dirksen Parkway
3 Springfield, Illinois
appearing for IDOT;

4
MR. JOHN SALADINO
5 527 East Capitol Avenue
Springfield, Illinois 62701
6 appearing for the Transportation
Bureau of the Illinois Commerce
7 Commission

8 MR. BRIAN VERCRUYSSSE
527 East Capitol Avenue
9 Springfield, Illinois
appearing for the Transportation
10 Division of the Illinois Commerce
Commission

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20 SULLIVAN REPORTING COMPANY, by
21 PATRICIA WESLEY
LICENSE NO. 084-002170

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I N D E X

WITNESSES DIRECT CROSS REDIRECT RECROSS EXMNR.

| | | | | |
|-----------|----|----|----|----|
| JENNIFER | | | | |
| CRUMBLISS | 12 | | 45 | 25 |
| | | 33 | | 43 |
| | | 40 | | |
| JOHN | | | | |
| VENICE | 46 | 54 | | 52 |
| | | 66 | | 65 |
| | | 68 | | 85 |
| RYAN | | | | |
| HANSEN | 77 | 92 | | |

E X H I B I T S

| | | |
|-------|--------------------|-------------|
| UP | FOR IDENTIFICATION | IN EVIDENCE |
| No. 1 | 5 | 25 |

1 (Whereupon, UP Exhibit
2 No. 1 was previously
3 marked for identification.)
4 JUDGE DUGGAN: Pat, we are going to go on the
5 record. Everybody ready?
6 (No response.)
7 Pursuant to the authority vested in me
8 by the State of Illinois and the Illinois Commerce
9 Commission, I now call Docket T16-0069 for hearing.
10 May I have appearances starting with
11 the attorney for the Village of Gardner.
12 MR. DEARTH: Chris Dearth.
13 JUDGE DUGGAN: Your name, your firm, your
14 address, and your phone number, please --
15 MR. DEARTH: Chris --
16 JUDGE DUGGAN: -- and who you represent.
17 MR. DEARTH: Chris Dearth, last name D-E-A-R-T-H,
18 representing the Village of Gardner. The law firm
19 is Scott M. Belt & Associates, address 105 East Main
20 Street, Suite 206, Morris, Illinois, 60450.
21 JUDGE DUGGAN: Union Pacific.
22 MR. SHUMATE: My name is Mack, M-A-C-K, Shumate,

1 S-H-U-M-A-T-E. I'm an attorney for the Union
2 Pacific Railroad Company. Our offices are at
3 101 North Wacker Drive, Suite 1920, Chicago,
4 Illinois, 60606. My telephone number is Area Code
5 312-777-2055.

6 JUDGE DUGGAN: And, Mr. Belt, you want to put
7 your appearance in also?

8 MR. BELT: Your Honor, Scott Belt, B-E-L-T, on
9 behalf of the Village of Gardner, same firm name and
10 contact information as Mr. Dearth previously
11 indicated.

12 JUDGE DUGGAN: Very good.

13 IDOT.

14 MS. KUNTZ: Jennifer Kuntz, K-U-N-T-Z, 2300 South
15 Dirksen Parkway, Springfield, Illinois, 62764;
16 217-782-3215.

17 JUDGE DUGGAN: Mr. Saladino.

18 MR. SALADINO: Your Honor, representing staff of
19 the Commerce Commission, Transportation Bureau,
20 John Saladino, S-A-L-A-D-I-N-O, 527 East Capitol
21 Avenue, Springfield, Illinois, 62701, and the
22 telephone number is 312-785-8423.

1 JUDGE DUGGAN: Very good.

2 (A brief pause.)

3 What's that? Oh, yes. I'm sorry,
4 Mr. Vercruysse.

5 MR. VERCRUYSSSE: Thank, your Honor. Thank you,
6 Mr. Saladino.

7 Brian Vercruysse, V - as in Victor -
8 V-E-R-C-R-U-Y-S-S-E, also with staff of the
9 Transportation Division of the Illinois Commerce
10 Commission, same address as Mr. Saladino. Phone
11 Number is 312-636-7760. Thank you.

12 JUDGE DUGGAN: Very good. Mr. Venice,
13 Mr. Hansen, and Ms. Crumbliss, raise your right
14 hand, please.

15 (Witnesses sworn.)

16 Very good. Okay. Now I want the
17 record to show that everybody is appearing today by
18 waiver of notice. Even though the notice went out
19 may not have had the requisite time frame for the
20 waiver and the notice and the requirement and by
21 their appearance here.

22 Is that agreeable with you,

1 Mr. Dearth?

2 MR. DEARTH: Thank you, your Honor.

3 JUDGE DUGGAN: Mr. Belt?

4 MR. BELT: Yes, your Honor.

5 JUDGE DUGGAN: Mr. Shumate?

6 MR. SHUMATE: Yes, sir.

7 JUDGE DUGGAN: Ms. Kuntz?

8 MS. KUNTZ: Yes, your Honor.

9 JUDGE DUGGAN: Mr. Vercruysse?

10 MR. VERCruysse: Yes, your Honor.

11 JUDGE DUGGAN: Mr. Saladino?

12 MR. SALADINO: Yes, your Honor.

13 JUDGE DUGGAN: Okay. And, as long as we're

14 waiving things, so I don't forget it at the end

15 here, if we could have an agreement to waive the

16 prohibition on ex-parte conversations for the

17 purpose of expediting, drafting, and resolving any

18 agreements or any issues that may come up.

19 What I mean, Mr. Dearth and Mr. Belt,

20 is it is just like a court. No one entity can come

21 talk to me or even with staff without everybody

22 being involved, that's the ex-parte rule, but

1 sometimes -- well, actually most times -- we agree
2 to waive that for purposes of getting things done
3 quicker.

4 So is that agreeable with you,
5 Mr. Dearth?

6 MR. DEARTH: That's specifically with regard to
7 the drafting of the order, your Honor?

8 JUDGE DUGGAN: That's the way I phrased it. In
9 reality, issues that come up, everything is done
10 towards getting an order done, so it's really kind
11 of a broader waiver for purposes of getting this
12 docket resolved. If you have a problem with it,
13 that's fine. We can always stop.

14 MR. DEARTH: The village would not have a problem
15 with it for purposes of drafting the order.

16 JUDGE DUGGAN: With the broad parameters I spoke,
17 pretty much everything we do here is an order
18 drafted with that understanding; is that correct?

19 MR. DEARTH: That's correct, Judge.

20 JUDGE DUGGAN: Mr. Belt?

21 MR. BELT: So agreed, your Honor.

22 JUDGE DUGGAN: Mr. Shumate?

1 MR. SHUMATE: So agreed, your Honor.

2 JUDGE DUGGAN: Ms. Kuntz?

3 MR. KUNTZ: IDOT would waive, your Honor.

4 JUDGE DUGGAN: Mr. Vercruysse?

5 MR. VERCRUYSSSE: Staff agrees, your Honor.

6 JUDGE DUGGAN: Mr. Saladino?

7 MR. SALADINO: Staff agrees.

8 JUDGE DUGGAN: Very good. It's also with the

9 understanding that there's very little need for any

10 communication that can't be done by E-mail that

11 everybody -- really what it allows me to do

12 sometimes is to talk with Mr. Saladino or

13 Vercruysse. That's really, as a practical matter,

14 where the real waiver comes in is that I can go talk

15 to them, ask them to clarify something, get my

16 memory straight on something, ask them, here, read

17 this engineering design that I can't read. You

18 know, that's where it comes in handy for me.

19 Also, when one of us, whether it's

20 staff, or me, or whomever, that sometimes it's -- I

21 think it's more beneficial to everybody -- not all

22 the time -- that I run it by one of them first and

1 they can either throw in some of the standard
2 language that should have been in there that I
3 missed or something, and I think we have a lot
4 better draft the first time through if staff and I
5 combine to get a draft and I think that saves
6 everybody some time. I can't always do it that way,
7 but I think it's a benefit to everybody.

8 So, again, if you want to pull your
9 waiver, you can pull your waiver. That's pretty
10 much the way I operate with that. So, anyway, you
11 can pull your waiver at any time before we're done
12 any time today.

13 So it is the Village of Gardner's
14 case, Village of Gardner would proceed.

15 As you know, Mr. Dearth, Mr. Shumate
16 has agreed to take the bull by the horns, but it's
17 pretty much how ever you would like to proceed,
18 Mr. Dearth.

19 MR. DEARTH: Judge, at this time the village has
20 no objection to Union Pacific calling its expert
21 witnesses for laying testimony, which what I believe
22 to be exhibits they have been seeking to enter into

1 evidence.

2 JUDGE DUGGAN: All right. Mr. Shumate, you want
3 to call your witness.

4 MR. SHUMATE: Thank you, counsel, and to the
5 hearing I would like to call now Jennifer Crumbliss.

6 JENNIFER CRUMBLISS,
7 called as a witness herein, having been first
8 duly sworn, was examined, and testified as follows:

9 DIRECT EXAMINATION

10 BY

11 MR. SHUMATE:

12 Q. Would you state your name for the record,
13 please.

14 A. Yes. My name is Jennifer Crumbliss,
15 J-E-N-N-I-F-E-R, Crumbliss, C-R-U-M-B-L-I-S-S.

16 Q. Ms. Crumbliss, by whom are you currently
17 employed?

18 A. I'm employed by HDR Engineering.

19 Q. Are you familiar with the construction
20 projects which are the subject of today's hearing?

21 A. Yes.

22 Q. What is your educational background?

1 A. I'm a civil engineer, Bachelor's of Civil
2 Engineering, licensed in Illinois.

3 Q. Has your firm been retained by Union Pacific
4 Railroad to assist in the high-speed rail project
5 throughout the State of Illinois?

6 A. Yes.

7 Q. Are you familiar with what's been marked as
8 Union Pacific Group Exhibit 1?

9 A. Yes.

10 Q. Did you help prepare this documentation?

11 A. Yes.

12 Q. Would you give us a general overview and
13 walk us through what these documents purport to
14 show?

15 A. Yes.

16 JUDGE DUGGAN: Tell you what, Mack, why don't we
17 start with an overview of the project. What we're
18 doing here is talking about the pedestrian path
19 through the feeder sections in the Town of Gardner,
20 Illinois, and that you have got two pages of
21 exhibits for each one of those crossings; is that
22 fair, Ms. Crumbliss?

1 THE WITNESS: (No response.)

2 MR. SHUMATE: That's absolutely correct.

3 JUDGE DUGGAN: Is that fair, Ms. Crumbliss?

4 THE WITNESS: Yes.

5 JUDGE DUGGAN: Very good. Okay. Go ahead.

6 MR. SHUMATE: Q. Okay. Ms. Crumbliss, I am

7 going to direct your attention to what's marked as

8 Page No. 2, Union Pacific Group Exhibit 1, marked

9 "Roadway Crossing Plan." What does that purport to

10 show?

11 A. This is the Washington Street crossing plan

12 and it shows the addition of a sidewalk on the north

13 side of the street. It is a single-track crossing

14 in this area. It is the roadway crossing plan. The

15 right-of-way here is 50 feet for the track, is

16 50 feet either side of the center line of the track.

17 We are constructing a 5-foot sidewalk

18 through the crossing, through the right-of-way, and

19 a small portion on the west side of Center Street's

20 intersection to connect back to the existing

21 sidewalk that is there today.

22 Q. Okay. Just for purposes of edification,

1 this is part of the high-speed rail program; is that
2 correct?

3 A. Yes, it is.

4 Q. And on the roadway crossing plan there's
5 areas here that have like a herring bone design on
6 them. It looks like they're all four quadrants,
7 different shapes and sizes. Can you tell us what
8 that is?

9 A. Yes. Those are -- that hatching pattern is
10 for the Union Pacific's access to driveways to
11 access and maintain their tracks. We have that on
12 -- as much as we can, on all four sides of the
13 tracks.

14 Q. What type of signalization will be installed
15 at this particular railroad grade crossing?

16 A. Well, the existing four-quad gate system
17 that's there today will remain and we're adding
18 pedestrian gates to go in that on the north side
19 only.

20 Q. Will there be fencing included in this
21 particular plan?

22 A. Yes. There is fencing throughout this area

1 in Gardner, and it's shown on all four quadrants of
2 the crossing itself.

3 Q. And where the pedestrian crossing is, will
4 that have any type of specific or specified gates
5 and fencing?

6 A. Yes, there will be a shorter fence that will
7 go up to the mechanized crossing arm and there will
8 be a swing gate and an escape path constructed for
9 pedestrians that might be between the gates when the
10 gates start to be activated for them to push their
11 way out of the fence gate.

12 Q. Will this installation mirror the other type
13 of installations for pedestrian traffic that is
14 being utilized throughout the high-speed rail
15 program in the State of Illinois?

16 A. Yes.

17 Q. And will there be signage at the gate
18 locations?

19 A. Yes, the pedestrian gate locations.

20 Q. Is there anything unique about this
21 particular pedestrian sidewalk and crossing compared
22 to the other ones that you have worked on?

1 A. No, sir.

2 Q. Directing your attention to what's Page 3 of
3 Union Pacific Group Exhibit No. 1, what is this?

4 A. This is the signing and pavement marking
5 sheet depicts the signs and markings that will be
6 placed or that are out there today for both the
7 street and for the sidewalk.

8 Q. Will there be some pavement markings the
9 Illinois Department of Transportation will pay for
10 the vehicular area?

11 A. Yes, there will be the railroad crossing
12 markings with the R's and X's with the stop bars in
13 advance in both directions and there will also be
14 stop bars in front of the roadway or vehicle gates,
15 and then there's also a crosswalk that we show being
16 striped across Center Street along with the stop
17 bar.

18 Q. Is there any defined pavement markings that
19 will be included for the pedestrian crossing within
20 the road's right-of-way?

21 A. No, I don't believe so.

22 Q. Are there any proposals that are recommended

1 or suggested for the road authority beyond the
2 railroad right-of-way?

3 A. Yes.

4 Q. Does that include both pavement markings and
5 signs?

6 A. Yes.

7 Q. And is that within the jurisdiction of the
8 roadway authority and the MUTCD?

9 A. Yes.

10 Q. Would you define what MUTCD is?

11 A. The MUTCD is the Manual on Uniform Traffic
12 Control Devices that the State of Illinois follows
13 for their determining where signs and markings are
14 placed.

15 Q. Is there anything more on this particular
16 roadway pavement marking and signing document that
17 you would like to explain to the hearing judge?

18 A. No, I don't believe so.

19 Q. Okay. Now I would like to direct your
20 attention to Page 4 of Union Pacific Group Exhibit
21 1. What is this?

22 A. This is the roadway plan sheet for Jackson

1 Street in Gardner.

2 Q. And what does it purport to show?

3 A. It shows that our plans for installing a
4 sidewalk on the north side of Jackson Street and on
5 the south side of Jackson Street that crosses the
6 railroad right-of-way. There are a few lateral
7 connections to reconnect the existing sidewalk
8 system to what we're installing.

9 Q. Will this particular grade crossing also
10 have fencing in and about the area?

11 A. Yes. Fencing is required for pedestrians
12 and is shown in a long dash with two hash marks and
13 it is throughout the Gardner area.

14 Q. And what type of signalization system will
15 be at this particular railroad gate crossing?

16 A. Today there are four quad gates for the
17 vehicles. Those will remain in service. We are
18 adding pedestrian gates at four locations on either
19 side of the track north and south of the street.

20 Q. Will the pedestrian locations also have the
21 escape gates, and fencing, and signing that we
22 referenced for the crossing at Washington Street?

1 A. Yes, we will have the same type of fence.

2 Q. Now I direct your attention to Page 5 of
3 Union Pacific Group Exhibit 1. It's identified as
4 roadway pavement markings and signing. Are you
5 familiar with this document?

6 A. Yes.

7 Q. Can you tell us what this shows?

8 A. This shows the markings and the signs that
9 will be either to remain or be adjusted for the
10 vehicles and for the sidewalk.

11 Q. Will the Illinois Tollway be responsible for
12 the pavement markings on the vehicular highway?

13 A. The local road authority will be responsible
14 for maintaining them, but this project will
15 replace -- the high-speed rail program will replace
16 all signs depicted here (indicating) and the
17 markings depicted here (indicating) which includes
18 the railway approach markings and various stop bars
19 and stop signs for the crossing.

20 Q. Now I'll direct your attention to Page 6 of
21 the Union Pacific Group Exhibit 1. The roadway
22 crossing plan for the Division Street are you

1 familiar with this?

2 A. Yes.

3 Q. Did your office prepare this?

4 A. Our project team, yes, prepared these under
5 my supervision.

6 Q. As a matter of fact -- and I think I asked
7 this, but I'll ask it again -- your office has
8 prepared this entire exhibit, correct?

9 A. Yes.

10 Q. Now what does the railroad crossing plan for
11 Division Street, Page 6 of Union Pacific Group
12 Exhibit 1, show?

13 A. It shows the addition of the sidewalk on the
14 south side track south side of Division Street.

15 Q. What type of signalization is at this
16 particular location?

17 A. There are four-quad gates today and they'll
18 remain in service. We're adding two pedestrian
19 gates on either side of the tracks on the south side
20 of the road.

21 Q. And what type of fencing and gate mechanism
22 will there be for the pedestrian crossing?

1 A. There will be the same standard high-speed
2 rail pedestrian treatments with fencing and escape
3 gates that are on all pedestrian crossings within
4 the corridor.

5 Q. In your own words, can you describe what the
6 gates and what the fencing -- how that works at a
7 pedestrian crossing?

8 A. Certainly. You have -- from the edge of
9 pavements working our way outward, we have a roadway
10 or a vehicle roadway gate. Behind that is where the
11 sidewalk is located, typically 4-1/2 feet from that
12 mechanism, then there's a pedestrian gate that comes
13 down towards the roadway gate, and behind that is
14 the escape area for a pedestrian that might be
15 caught between the gates if we are to go down and
16 there's a fence-type swing gate that they can push
17 to enter or leave the area between the pedestrian
18 gates.

19 Q. To your knowledge, is there specific signing
20 on the gate?

21 A. Yes.

22 Q. Do you know what it says?

1 A. One sign says push to exit and another says
2 do not enter.

3 Q. And this is to assist people so they will
4 not be trapped; is that correct?

5 A. That's correct. That's typical for all
6 pedestrian treatments.

7 Q. And are all of these pedestrian treatments
8 handicapped accessible?

9 A. Yes.

10 Q. Now I direct your attention to Page 7 of
11 Union Pacific Group Exhibit 1, Division Street, so
12 the roadway pavement markings and signing what do
13 this purport to show?

14 A. This depicts the markings for the vehicles
15 on the pavement which include the stop bars and the
16 railroad markings. It also depicts the signs
17 related to the high-speed rail corridor for the
18 vehicles with 10-1 signs, and some advance warning
19 signs on the parallel street, Liberty Street and on
20 Depot Street.

21 Q. These plans -- to your knowledge, who had
22 the opportunity to review and approve these plans?

1 A. These were submitted through IDOT District 3
2 and provided to the Village of Gardner multiple
3 times throughout the design.

4 Q. And, to your knowledge, who will be paying
5 for the installation of the grade crossings at all
6 the locations depicted in UP Group Exhibit 1?

7 A. IDOT IPI is handling the funding, but Union
8 Pacific has hired the contractor to build.

9 Q. Is there anything I failed to ask you you
10 think would be helpful to the hearing officer in
11 rendering a decision in this matter?

12 A. I don't think so.

13 MR. SHUMATE: Your Honor, at this time, if
14 there's no objection, I would like to offer into
15 evidence Union Pacific Group Exhibit 1.

16 JUDGE DUGGAN: Any objection, Mr. Dearth?

17 MR. DEARTH: No objection from the village, your
18 Honor.

19 JUDGE DUGGAN: Mr. or Ms. Kuntz?

20 MS. KUNTZ: No objection.

21 JUDGE DUGGAN: Mr. Vercruysse?

22 MR. VERCRUYSSSE: No objection, your Honor.

1 JUDGE DUGGAN: Very good. Exhibit -- UP Exhibit
2 1 is admitted into evidence.

3 (Whereupon, UP Exhibit
4 No. 1 was received in
5 evidence.)

6 MR. SHUMATE: Your Honor, at this time I would
7 tender the matter back to counsel for the Village of
8 Gardner, and then I still have three questions to
9 ask of Mr. Venice. If you would like me to do that
10 now, I can or I can do it later.

11 JUDGE DUGGAN: Okay. Let's hold on. Let me ask
12 Ms. Crumbliss some questions and then --
13 Ms. Crumbliss some questions and then we'll go
14 around the room.

15 EXAMINATION

16 BY

17 JUDGE DUGGAN:

18 Q. Mr. Crumbliss, you said that the Washington
19 Street ped path would be, I think you said,
20 5-foot wide; is that right?

21 A. Yes, sir.

22 Q. Okay. And are all the sidewalks that you

1 discuss today going to be 5-foot wide?

2 A. Yes.

3 Q. What would it consist of? Will it be
4 primarily asphalt or concrete?

5 A. Concrete.

6 Q. Okay. And presumably is it correct that
7 each crossing surface is going to consist of --
8 excuse me -- each railroad vehicular crossing
9 surface is going to consist of concrete panels?

10 A. Yes.

11 Q. Okay. And when you refer to IDOT paying for
12 installation of the crossings, in response to
13 Mr. Shumate's question, were you referring to the
14 concrete panels at the crossing?

15 A. Referring to the sidewalk work and the
16 pedestrian signals, and pedestrian treatments, and
17 the fencing, everything depicted as proposed on our
18 drawings.

19 Q. In these cases, the high-speed rail
20 improvements made in each of these crossings, is
21 that for purposes of the vehicular crossing,
22 correct?

1 A. The four quad gates are existing and they
2 will remain if that's what you are asking.

3 Q. What about the concrete panels?

4 A. Yes.

5 Q. Are they going to be replaced?

6 A. The panels are already in place, yes, sir.

7 Q. Okay. So is the plan that at each of these
8 crossings that additional concrete panels will be
9 added at each crossing to the existing concrete
10 panels to accommodate in line with the path or the
11 paths at each crossing to serve as the surface for
12 the crossing path at that point; is that correct?

13 A. My understanding is that all of the panels
14 are already in place, and if any additional ones are
15 required for the sidewalk, they will be added.

16 Q. Okay. Who would know if they're already in
17 place?

18 A. They are already in place, sir.

19 Q. Okay. Very good.

20 And does the plan call for four-foot
21 asphalt buffers between the concrete and the path
22 and the concrete panels of the crossing surface?

1 A. Yes.

2 Q. And is that at each path you discussed?

3 A. Yes, at each location.

4 Q. And is each path connected to the existing

5 path on the side away from the crossing?

6 A. Yes. There are sidewalks existing today.

7 Q. And each path will connect with them --

8 A. Yes.

9 Q. -- with the existing sidewalks?

10 A. Yes.

11 Q. And the pedestrian path gates that are going

12 to be installed at each crossing -- excuse me -- at

13 each pedestrian path are those -- the structures for

14 each of the pedestrian gates going to be between the

15 path and the roadway or on the side of the path away

16 from the roadway?

17 A. On the side of the path away from the

18 roadway is where the foundation for the gate will be

19 placed.

20 Q. Are there going to be bells at any of these

21 pedestrian paths?

22 A. Yes.

1 Q. At each one?

2 A. Yes.

3 Q. Just one on each pedestrian gate?

4 A. Yes, one on each gate installed.

5 Q. I didn't catch the last word.

6 A. Yes, sir.

7 Q. You said one on each gate and something.

8 A. Each one that is installed, yes.

9 Q. And will the bells and gates activate with

10 the vehicular crossing gates at each intersection --

11 at each crossing?

12 A. Yes. I believe they're simultaneous.

13 Q. Who would know?

14 MR. VERCROYSSSE: Your Honor, I would know.

15 JUDGE DUGGAN: Okay. You are going to ask him

16 that, John? You can ask him, John or Mack, before

17 we get to that.

18 JUDGE DUGGAN: Q. Now is this fencing going to

19 -- is it going to be 150-foot fencing running from

20 each of the 150-foot mounting structures from each

21 pedestrian gate?

22 A. Yes. It's at least that far. It's actually

1 connecting longer than 150. It's all throughout
2 Gardner.

3 Q. Very good.

4 All right then, and when you were
5 asked again whether IDOT was going to pay for the
6 installation at the grade crossings; however, Mack
7 raised that, in fact, it's your understanding that
8 IDOT is going to pay for all aspects of this design
9 and installation of warning devices, and the
10 pedestrian path, and the gates, and, like I say, the
11 design and installation of everything we discussed?

12 A. Yes, your Honor.

13 Q. But UP will be installing all of these
14 aspects of the sidewalk, including the connections,
15 up to the existing sidewalks; is that correct?

16 A. That's correct.

17 Q. And it was just Jackson that has the
18 proposed path on north and south?

19 MR. VERCROYSSSE: Jackson has the proposed path on
20 -- I'm sorry, your Honor. I'll wait.

21 THE WITNESS: Yes. Yes, that's true.

22 JUDGE DUGGAN: Q. Okay. And Division Street

1 passes on the south, correct?

2 A. Yes. Division is on the south side.

3 Q. Washington's on the north and Jackson both

4 north and south, right?

5 A. Yes, that's correct.

6 Q. To your knowledge, are these paths located

7 within the existing roadway right-of-way?

8 A. Outside of the railroad right-of-way, yes,

9 they are.

10 JUDGE DUGGAN: Go off the record.

11 (Off the record.)

12 Back on the record.

13 JUDGE DUGGAN: Q. All right. So, Ms. Crumbliss,

14 you tell me that you can't say whether they are or

15 whether every aspect of this pedestrian path or each

16 pedestrian path is within the existing Gardner

17 roadway right-of-way. Is that what you are telling

18 me you don't know?

19 A. They are within the UP's right-of-way and --

20 Q. I didn't ask about UP's right-of-way. I

21 asked you about the roadway right-of-way.

22 A. The portions that are outside of UP's

1 right-of-way are, yes, inside of Gardner's
2 right-of-way.

3 JUDGE DUGGAN: All right. Mack, can you
4 stipulate to this. I can't get a straight answer
5 here, so I'll ask for a stipulation, Mack, that
6 either the plans as depicted show that all aspects
7 of the pedestrian path either are within the
8 existing roadway authority right-of-way or that if
9 any additional property is needed to have them
10 within the roadway authority right away that that
11 additional property right will be granted; is that
12 correct, Mack?

13 MR. SHUMATE: That's absolutely correct.

14 JUDGE DUGGAN: And you will stipulate to that,
15 correct?

16 MR. SHUMATE: Yes, I will.

17 JUDGE DUGGAN: And you, correct, will stipulate
18 that you have a witness authorized from the UP with
19 that knowledge to answer that question, and if asked
20 that question to elicit that response, and that's
21 the response you would be giving on behalf of UP; is
22 that correct?

1 MR. SHUMATE: Yes, your Honor.

2 JUDGE DUGGAN: Q. Very good. All right.

3 Mr. Dearth, you can question now or

4 you can wait until Mack asks questions of Mr.

5 Venice. What is your preference? What do you want

6 to do?

7 MR. DEARTH: Is it possible, Judge, if I could

8 cross-examine Ms. Crumbliss?

9 JUDGE DUGGAN: Just bear in mind that the problem

10 is that we don't have testimony on responsibility

11 for costs yet. This is just design and

12 installation so you can't cross her on that, so go

13 ahead.

14 MR. DEARTH: Thank you, your Honor.

15 CROSS EXAMINATION

16 BY

17 MR. DEARTH:

18 Q. Ma'am, if you could identify the specific

19 engineering standards that were used with regard to

20 these plans.

21 A. We utilized the Illinois Department of

22 Transportation's Bureau of Local Roads Manual and we

1 also used the MUTCD Manual, which is the Uniform
2 Traffic Control Devices, and also consulted Pro Wag,
3 which is the American Disability Act Guidelines for
4 Sidewalks.

5 Q. And with regard to each one of those
6 engineering standards, those were employed at all
7 three locations in Gardner, that being the
8 Washington Street grade crossing, the Jackson Street
9 grade crossing, as well as the Division Street grade
10 crossing?

11 A. Yes.

12 Q. You indicated during the initial examination
13 that the improvements depicted within the
14 engineering plans on Washington Street were going to
15 be constructed by Union Pacific; is that correct?

16 A. Yes, that's correct.

17 Q. And with regard to the improvements depicted
18 within specifically the Washington Street road grade
19 crossing plan identified in Page 2 of Union Pacific
20 Group Exhibit 1, those will be paid for by the
21 Illinois Department of Transportation; is that
22 correct?

1 A. Yes.

2 Q. And those improvements, as depicted in this
3 exhibit, fall within the Union Pacific right-of-way
4 and outside of the Union Pacific right-of-way; is
5 that correct?

6 A. That's correct.

7 Q. And it's your understanding that not only
8 the Illinois Department of Transportation will be
9 providing funding for those improvements --

10 A. Yes.

11 Q. -- with the Union Pacific providing
12 construction for those?

13 A. That is correct.

14 Q. And is that also correct with regard to
15 Jackson Street in that the improvements depicted on
16 specifically Page 4 of Union Pacific Group Exhibit 1
17 would be constructed by Union Pacific?

18 A. That's correct.

19 Q. And they would be funded by the Illinois
20 Department of Transportation?

21 A. That's correct.

22 Q. And with regard to the improvements shown

1 both to pavement, as well as crossing gates, those
2 would fall within and outside of the Union Pacific
3 right-of-way?

4 A. Yes.

5 Q. And Union Pacific would be responsible for
6 construction?

7 A. Yes.

8 Q. And the Illinois Department of
9 Transportation will be responsible for costs?

10 A. That's correct.

11 Q. And, finally, with regard to Division Street
12 depicting with regard to the roadway crossing plan,
13 Page 6, Union Pacific Group Exhibit 1 depicts
14 improvements that are going to be within the Union
15 Pacific right-of-way, and then with regard to Page 7
16 of Union Pacific Group Exhibit 1 outside of Union
17 Pacific's right-of-way; is that correct?

18 A. That's correct.

19 Q. And Union Pacific will be responsible for --
20 strike that -- would be responsible for the
21 maintenance -- strike that -- will be responsible
22 for the installation of those improvements depicted

1 in Page 6 and Page 7?

2 A. That's correct.

3 Q. Will the Illinois Department of
4 Transportation be responsible for all costs
5 associated with all improvements depicted in Page 6
6 and Page 7?

7 A. That's correct.

8 Q. During your testimony, you had indicated
9 that there's a fencing system that's going to be
10 installed.

11 A. Yes.

12 Q. Are you aware of who's going to be
13 responsible for maintenance of that fencing?

14 A. It's my understanding that there's a joint
15 maintenance agreement between the railroad and IDOT
16 for maintenance.

17 Q. Did you have an opportunity to take a look
18 at this maintenance agreement?

19 A. I have not.

20 Q. Are you aware if it involves not only
21 maintenance of the fence but the maintenance of
22 vegetation surrounding the fence?

1 A. I'm not certain.

2 Q. If you could jump back with regard to the
3 Union Pacific group exhibits, just to clarify your
4 testimony during direct examination, you indicated
5 there's certain signage that's going to be present
6 as depicted on and throughout Union Pacific Group
7 Exhibit 1.

8 A. That's correct.

9 Q. You had indicated that the local road
10 authority would be required with regard to
11 maintenance of that.

12 A. That's my understanding, yes.

13 Q. And with regard to costs of installation and
14 actually purchasing of that signage, to whom under
15 your understanding would be responsible for that?

16 A. Currently in the plans, IDOT is paying for
17 the UP to construct those signs with the project.

18 Q. So the initial cost of installation, as well
19 as purchasing of signs, does not fall under the
20 local road authority?

21 A. Not for this initial construction, no.

22 MR. DEARTH: Could I have one moment, your Honor.

1 JUDGE DUGGAN: Sure.

2 (A brief pause.)

3 MR. DEARTH: The village has no further questions
4 for Ms. Crumbliss.

5 JUDGE DUGGAN: Okay. Let me ask you this,
6 Mr. Dearth. You heard the stipulation that
7 Mr. Shumate offered that each of these paths are
8 either when built will be within the roadway
9 authority right-of-way or that if that roadway
10 authority is not sufficient presently that UP will
11 grant such property rights.

12 And my question is do you accept that
13 stipulation as evidence?

14 MR. DEARTH: Yes, the village does, Your Honor.

15 JUDGE DUGGAN: Ms. Kuntz?

16 MS. KUNTZ: Yes, your Honor.

17 JUDGE DUGGAN: Mr. Vercruysse?

18 MR. VERCRUYSSSE: Yes, your Honor.

19 JUDGE DUGGAN: Thank you. All right. You want
20 to call Mr. Venice?

21 MR. SHUMATE: No, your Honor. I would like to do
22 a little redirect here.

1 MR. VERCROYSSSE: Your Honor, if staff may have a
2 chance to ask some questions clarifying design,
3 whenever you prefer, or if Mr. Shumate wants to do
4 his redirect.

5 MR. SHUMATE: No. Please, do your cross first.

6 MR. VERCROYSSSE: Thank you. Is that acceptable
7 to you, your Honor?

8 JUDGE DUGGAN: Sure.

9 MR. VERCROYSSSE: Thank you.

10 CROSS EXAMINATION

11 BY

12 MR. VERCROYSSSE:

13 Q. Ms. Crumbliss, just a couple of questions
14 relative to this design. You testified relative to
15 the placement of the warning devices.

16 In general, you have the roadway, and
17 the vehicular gates, and those vehicular gates were
18 put into a grass parkway or some sort of parkway.
19 Is it generally about
20 10-feet wide?

21 A. Generally. It varies depending on which
22 cost. It varies, but, yes, generally about that

1 wide.

2 Q. And is that width to allow so counterweights
3 off the right-of-way assembly do not impact the
4 sidewalk? Is that correct?

5 A. That's correct.

6 Q. Because if the counterweights would come up
7 to the sidewalk, we would have impediments for
8 pedestrians, correct?

9 A. That's correct.

10 Q. So you testified then that the sidewalk
11 would be constructed about five feet from there.

12 A. That's correct.

13 Q. Then you have the pedestrians --

14 JUDGE DUGGAN: Five feet from where?

15 MR. VERCRUYSSSE: Five feet -- sidewalk would be
16 five feet, and it would be at the back of the
17 parkway.

18 MR. VERCRUYSSSE: Q. Is that correct, your Honor
19 or Ms. Crumbliss?

20 A. Yes, that is correct.

21 Q. Thank you.

22 JUDGE DUGGAN: You said at the back of the

1 parkway. That's what I heard.

2 MR. VERCRUYSSSE: Right. You have the roadway,
3 then you have the 10-foot parkway, and in
4 terminology that's used for the plans the back of
5 the parkway would be that farthest point from the
6 roadway where the parkway ends.

7 MR. VERCRUYSSSE: Q. Is that correct?

8 A. That is correct. That sounds right.

9 Q. Then the sidewalk starts and it's five feet;
10 is that correct?

11 A. That's correct.

12 Q. Thank you. And the pedestrian gate is put
13 in place at that point?

14 A. That's correct.

15 Q. All right. And with all those, the
16 pedestrian gates lower than towards the parkway and
17 towards the roadway?

18 A. That's correct.

19 Q. Thank you. The swing gate will then be
20 behind that section of the pedestrian gate, correct?

21 A. That's correct.

22 Q. And then that pedestrian gate lowers in

1 accordance with vehicular gates, the entrance gate;
2 is that correct?

3 A. That correct.

4 Q. Thank you.

5 MR. VERCRUYSSSE: Your Honor, no further
6 questions. I just want to make sure I had the
7 different points in the draft order that the parties
8 were proposing there so that it's on the record.
9 Thank you.

10 EXAMINATION

11 BY

12 JUDGE DUGGAN:

13 Q. Very good. Let me see. Because the parkway
14 thing I have. I don't want to get to define it.

15 How far from the road is the
16 pedestrian path going to be built?

17 A. It varies to each crossing, but generally
18 the sidewalk is 4-1/2 feet behind the existing
19 roadway gates. That's what controls the location of
20 the sidewalk.

21 Q. It's usually a minimum of 9 feet, your
22 Honor, because of this counterweight issue, and I

1 know it's something that was not brought forth.

2 JUDGE DUGGAN: Why did she say 4-1/2?

3 MR. VERCROYSSSE: 4-1/2 is from the center line of
4 the assembly of the roadway gate from the center of
5 that gate to the end of the counterweights is 4-1/2
6 feet. That's why she gave that.

7 THE WITNESS: Right.

8 MR. VERCROYSSSE: And then from the center of the
9 foundation of the roadway is generally for this
10 location about 4 foot 3 inches to 4-1/2 feet, so
11 that's a minimum of 9 feet --

12 THE WITNESS: This is true.

13 MR. VERCROYSSSE: Q. -- if there's a curb.

14 JUDGE DUGGAN: All right. So 9 feet from the
15 roadway to the sidewalk, then you are telling me
16 it's 4 1/2, 4 1/2, and that's why it's 9 feet,
17 right?

18 THE WITNESS: Correct.

19 JUDGE DUGGAN: Okay. Good enough.

20 Mr. Shumate?

21 MR. SHUMATE: Yes. One question on redirect
22 here.

1 REDIRECT EXAMINATION

2 BY

3 MR. SHUMATE:

4 Q. When Judge Duggan was asking you questions
5 concerning the pedestrian crossing, and specifically
6 with regard to the buffer area, I had heard four
7 feet. Do you know how wide the buffer area is?

8 A. Between the panels and the concrete portion
9 of the sidewalk?

10 Q. Yes, that's correct.

11 A. Generally we have been placing a 4-foot
12 asphalt strip.

13 MR. SHUMATE: Okay. No further questions, your
14 Honor.

15 JUDGE DUGGAN: All right. You want to call
16 Mr. Venice?

17 MR. SHUMATE: Yes, sir. I would like to now call
18 John Venice.

19 JOHN VENICE,
20 called as a witness herein, having been first duly
21 sworn, was examined and testified as follows:

22

1 DIRECT EXAMINATION

2 BY

3 MR. SHUMATE:

4 Q. Mr. Venice, could you state your name for
5 the record, please.

6 A. Sure. First name is John spelled, J-O-H-N,
7 last name is Venice, spelled V - as in Victory -
8 E-N-I-C-E.

9 Q. Mr. Venice, by whom are you currently
10 employed?

11 A. The Union Pacific Railroad Company.

12 Q. How long have you worked for the Union
13 Pacific and/or its predecessors?

14 A. Almost 18 years.

15 Q. What's your current title?

16 A. I'm a manager of special projects in the
17 engineering department.

18 Q. And how long have you been in the
19 engineering department of the Union Pacific
20 Railroad?

21 A. Just over ten years.

22 Q. And are you familiar with the project which

1 is the subject of today's hearing?

2 A. Yes, sir.

3 Q. Have you or members of your staff had an
4 opportunity to review what's been marked as Union
5 Pacific Group Exhibit 1?

6 A. Yes.

7 Q. Have you or members of your staff had an
8 opportunity to review the actual site locations
9 where the grade crossing work will be performed?

10 A. Yes, we have.

11 Q. And I have some specific questions here
12 then. Do you know what the name of this particular
13 line is on the Union Pacific system?

14 A. Sure. This is the Union Pacific Railroad
15 Joliet Subdivision.

16 Q. Joliet Subdivision?

17 A. Yes.

18 Q. Okay. And do you know the FRA timetable
19 speed for this particular section of track?

20 A. Yes, I do. The maximum timetable speed
21 currently is 79 miles an hour.

22 Q. And is that for both freight trains and

1 Amtrak trains?

2 A. The passenger trains run a maximum of 79.
3 The freight trains I believe are restricted to 60
4 here.

5 Q. Is there proposed, when this high-speed rail
6 project is completed, that that train speed may
7 change?

8 A. Yes. The train speed would be strictly for
9 the Amtrak passenger trains.

10 Q. And will that be an increase or decrease?

11 A. It will be an increase.

12 Q. Are you familiar with the signal systems
13 that are utilized on this particular line for both
14 high-speed rail and freight?

15 A. Yes, sir.

16 Q. Are they two different systems?

17 A. They are not. The train control systems are
18 not two different systems.

19 Q. All right. But for the traffic control
20 systems, grade crossing warning devices.

21 A. There is a supplemental warning device for
22 high-speed rail Amtrak trains.

1 Q. Is that radio controlled?

2 A. I believe it is. It's called the ITCS
3 System.

4 Q. What is the accident history at the various
5 crossings which are the subject of today's hearing?

6 A. I couldn't find any accident history. I
7 looked back 15 years.

8 Q. And is that for all three crossings?

9 A. For all three, yes.

10 Q. And what is the number of trains that
11 currently go through the crossing under current
12 circumstances?

13 A. Currently we have 10 Amtrak trains, 5
14 northbound, 5 are southbound, approximately three
15 freight trains per day depending on business levels.

16 Q. To your knowledge, did Union Pacific seek
17 any pedestrian crossings at any of these locations?

18 A. To my knowledge, the Village of Gardner's
19 petition was the first petition for these locations.

20 Q. Now with regard to maintenance and
21 vegetation, what does the Union Pacific do with
22 regard to grade crossings in the State of Illinois?

1 A. I believe the rule is there's a 500-foot
2 rule and Union Pacific complies with that rule via a
3 weed spraying or weed killing program that we have.

4 Q. Would that be adopted at these particular
5 locations?

6 A. Yes, it would.

7 Q. It would be standard throughout the
8 high-speed rail network?

9 A. Yes, sir.

10 Q. With regard to the costs for this particular
11 project, can you summarize how this high-speed rail
12 project is being funded?

13 A. In general, the funds are coming from the
14 federal government. They're administered by the
15 Illinois Department of Transportation throughout the
16 entire corridor. In this location specifically the
17 Illinois Department of Transportation is funding the
18 improvements and the UP or its contract will
19 actually perform the construction.

20 Q. If any real property interest is needed for
21 this particular project, will the Illinois
22 Department of Transportation purchase that from the

1 Union Pacific Railroad?

2 A. Yes, they would.

3 Q. And with regard to the local roads, if
4 there's additional funds that are needed by the
5 local governmental entity for any portion or
6 supplement for any of the projects, does that
7 typically come from the Grade Crossing Protection
8 Fund, do you know?

9 A. I don't know that answer. I'm sorry. I
10 don't know.

11 Q. Is there anything that I failed to ask you
12 that you feel would be helpful to the hearing
13 officer in this matter to reach a determination as
14 to whether to improve the petition or not?

15 A. I can't think of anything, no.

16 Q. Does the Union Pacific have any objection to
17 the petition as being presented?

18 A. No objection and we're in support of the
19 projects.

20 Q. Thank you.

21 I have no further questions, your
22 Honor, for Mr. Venice.

1 EXAMINATION

2 BY

3 JUDGE DUGGAN:

4 Q. Mr. Venice, is the track that runs through
5 these three crossings is that the UP mainline?

6 A. Yes, it is, your Honor.

7 Q. Does that run in a northeast, southwest
8 general direction in this area?

9 A. Yes, it does.

10 Q. And do you know if these three road
11 crossings are they all north/south roads -- excuse
12 me -- or east/west roads?

13 A. Yes, I believe they are, your Honor.

14 Q. Are you the person to ask about the
15 maintenance and the costs thereof?

16 A. I could try to answer your questions, yes,
17 sir.

18 Q. Okay. Is UP agreeing to maintain all the
19 pedestrian paths through its right-of-way, as well
20 as pedestrian gates, and the fencing with the costs
21 and the costs thereof, except for the cost of
22 maintaining the fencing will be reimbursed by IDOT?

1 A. UP will -- as far as the grade crossing
2 surface, will maintain, as required by
3 administrative code, which is 24 inches, from the
4 outside of the outside rails.

5 Union Pacific Railroad will maintain
6 the grade crossing warning devices, including any
7 pavement loop deflectors at its expense. Union
8 Pacific will maintain the fencing involved but will
9 be reimbursed by IDOT for its costs maintaining that
10 fencing.

11 Q. And what about the sidewalk? How far out
12 from the tracks is the UP agreeing to maintain the
13 sidewalk?

14 A. My understanding is that requirement is
15 24 inches or two feet.

16 Q. Okay. So you are not agreeing to anything
17 further; is that right?

18 A. That's correct.

19 JUDGE DUGGAN: Okay. Mr. Dearth?

20 MR. DEARTH: Thank you, Judge.

21

22

1 CROSS EXAMINATION

2 BY

3 MR. DEARTH:

4 Q. Good afternoon, Mr. Venice. You alluded to
5 a maintenance agreement between Union Pacific and
6 the Illinois Department of Transportation; is that
7 correct?

8 A. Yes. I believe there's an agreement.

9 Q. And that is in regards to the vegetation and
10 control thereof around the Union Pacific track; is
11 that correct?

12 A. I don't know. I haven't read the agreement.

13 Q. But you alluded to the use of a form of
14 vegetation killer or killing agent; is that correct?

15 A. Well, the Union Pacific maintains its
16 crossings throughout the entire state with a
17 vegetation control program.

18 Q. Okay. And are you aware of specifically how
19 far they use this vegetation killing agent?

20 A. No, I'm not. I'm not involved in the
21 program.

22 Q. You are just aware that they use a

1 vegetation killing agent; is that correct?

2 A. Some form of it, yes. Some form of
3 vegetation control is used.

4 Q. But you are unaware of how far they would go
5 or how much they would put on, things of that
6 nature?

7 A. Right. That's outside my realm of
8 knowledge.

9 Q. You indicated that the timetable currently
10 -- and certainly correct me if I'm wrong -- is
11 79 miles per hour on this particular track at this
12 time; is that correct?

13 A. Yes.

14 Q. And what is the anticipated timetable?

15 A. The maximum timetable speed will be 110
16 miles an hour just for Amtrak trains.

17 Q. Are you familiar with the Village of Gardner
18 and the crossings that are subject to this petition
19 at this time?

20 A. Yes.

21 Q. Okay. Would you -- taking into
22 consideration the village and the proximity of

1 residential, as well as business districts, do the
2 intersection, do you believe that these crossings
3 and the pedestrian treatment and safety treatments
4 as well are necessary to preserve and promote the
5 safety and convenience of the public?

6 MR. SHUMATE: Your Honor, I'm going to object to
7 that because I don't think Mr. Venice is qualified
8 to give that type of answer. That's why we are
9 here. The safety and grade crossings in the State
10 of Illinois are under the exclusive jurisdiction of
11 the Illinois Commerce Commission.

12 MR. DEARTH: Judge, may I respond?

13 JUDGE DUGGAN: Well, let's do this.

14 Mack, who at UP would be qualified to
15 answer that question?

16 MR. SHUMATE: Well, I don't know that it would be
17 one person. We certainly have our police
18 department, our safety department, engineering,
19 transportation.

20 JUDGE DUGGAN: Do you think Mr. Venice is not
21 qualified to answer the question?

22 MR. SHUMATE: Maybe if I could hear the question

1 back again. What I heard he was asking for a pretty
2 grandiose answer. I don't know if you could read
3 the question back.

4 JUDGE DUGGAN: I believe this is one of the rules
5 necessary for public safety and convenience is what
6 I thought he said is his belief. He didn't qualify
7 him as an expert and an expert opinion, but I think
8 as an engineer from UP -- he was asking as an
9 engineer from UP, you know, so I will tell you what,
10 if you want to have the question read back, you do
11 that and then we can see if Mr. Venice is qualified
12 to answer the question or not. If he feels
13 qualified, then he can answer that.

14 MR. SHUMATE: Okay. Can we hear the question?

15 JUDGE DUGGAN: Are you going to re-ask the
16 question?

17 MR. DEARTH: I'm sorry, Judge. I thought you
18 were waiting for the reporter.

19 JUDGE DUGGAN: No. No. We don't have time for
20 that.

21 MR. DEARTH: Q. I can certainly ask the question
22 again.

1 Mr. Venice, is it your belief with
2 regard to the safety, pedestrian treatments that are
3 proposed in the village's petition, as well as the
4 Union Pacific Group Exhibit 1, necessary to preserve
5 and promote the safety and convenience of the
6 public?

7 A. I'm going to defer that to the expertise of
8 the Illinois Commerce Commission.

9 JUDGE DUGGAN: Well, if you don't feel qualified
10 to answer the question, Mr. Venice, you could say
11 you don't feel qualified to answer that question.
12 You can't really defer.

13 THE WITNESS: Your Honor, I don't feel qualified
14 to give that answer. Thank you.

15 JUDGE DUGGAN: What about Ms. Crumbliss? Do you
16 have an opinion? I'm asking Ms. Crumbliss if she
17 has an opinion.

18 MS. CRUMBLISS: As far as the necessity of the --
19 I need you to qualify your question if I'm to
20 answer.

21 MR. DEARTH: Judge, can I rephrase the question
22 for Ms. Crumbliss?

1 JUDGE DUGGAN: You think these -- you think these
2 pedestrian crossings with the safeguards that were
3 designed by your firm is necessary for public
4 safety, Ms. Crumbliss?

5 MS. CRUMBLISS: As --

6 MR. SHUMATE: Your Honor, I'm going to object
7 again. This is an agreement between the Illinois
8 Department of Transportation and Union Pacific. We
9 were asked to enter into an agreement to put
10 high-speed rail on our track in the Village of
11 Illinois and we're not going to give an opinion as
12 to whether or not --

13 JUDGE DUGGAN: Mr. Shumate --

14 MR. SHUMATE: -- this is safe or not.

15 JUDGE DUGGAN: Mr. Shumate, you are done.

16 MR. SHUMATE: Yes, sir.

17 JUDGE DUGGAN: Most of these orders make a
18 finding to that effect. I don't see that in this
19 draft. I don't think your objection is well put,
20 however, the question is whether your -- these
21 particular witnesses are able to answer that
22 question, so I think it's a relevant question. It

1 is a proper question.

2 The objection is overruled to the
3 extent it's an objection on that basis. To the
4 extent that any particular witness doesn't believe
5 that they're qualified to answer that question,
6 that's fine.

7 So Mr. Venice saying that he doesn't
8 believe he's qualified, and I asked Ms. Crumbliss,
9 and you objected at that point, so I'm overruling
10 your objection on the basis that I stated as to
11 whether it's a proper question or what the question,
12 and I'll put it to Ms. Crumbliss again. She feels
13 she doesn't -- I asked her if she had an opinion.
14 The question is do you have an opinion. I didn't
15 ask her what that opinion. I said do you have an
16 opinion, you don't have an opinion, you don't feel
17 qualified, just say so, Ms. Crumbliss.

18 MS. CRUMBLISS: I can speak to the pedestrian
19 treatments are in line with the guidelines provided
20 for the high-speed rail program.

21 JUDGE DUGGAN: I understand, but that's not the
22 question. If you can't answer the question, don't

1 bother, because the question is asked and usually
2 this answers that question, not the question the
3 witness was asked.

4 So the question is do you have an
5 opinion as to whether these pedestrian treatments at
6 these locations are necessary for public safety and
7 convenience. It's not that hard. Just do you have
8 an opinion. No, I don't have an opinion. It's not
9 a trick.

10 THE WITNESS: I --

11 MR. SHUMATE: Your Honor, can I ask for a recess
12 to discuss this with my witness?

13 MR. BELT: Absolutely not.

14 JUDGE DUGGAN: She was ready to say something,
15 just let her say something.

16 MR. SHUMATE: This has gone way beyond the scope
17 of this particular hearing, because it goes to the
18 absolute nature of the entire project.

19 You are asking an individual whether
20 this is safe or not. We don't know. No one knows.
21 We do the best we can.

22 JUDGE DUGGAN: That's not what he asked. If he

1 did, that's not the way I -- that's not what I
2 heard.

3 MR. DEARTH: Judge, the purpose for the question
4 is --

5 JUDGE DUGGAN: I don't care about the purpose of
6 the question. Tell me the question again. Make
7 sure we are all hearing the same question.

8 MR. SHUMATE: I'll listen again.

9 MR. DEARTH: Judge, the question that was posed I
10 believe to both Mr. Venice and Ms. Crumbliss was do
11 they believe that the pedestrian crossing safety
12 treatments and the improvements, as depicted on
13 Union Pacific's Exhibit Group 1, are necessary to
14 preserve and promote the safety and convenience of
15 the public.

16 JUDGE DUGGAN: Okay. So that wasn't the entire
17 project. That's not a question going after the
18 high-speed rail project or high-speed rail. It's a
19 question of once you have high-speed rail, is it
20 good to have pedestrian crossings with protective
21 devices of the sort or nature designed here, and, me
22 for one, I think it is pretty obvious, but I don't

1 see why in the world a witness, especially one who
2 designed them, couldn't have an opinion, and if she
3 said she doesn't have an opinion, she doesn't have
4 an opinion, but the ultimate decision maker is the
5 Commerce Commission, as Mr. Shumate pointed out, and
6 the witness can't answer a reasonable question.

7 If you don't have an answer,
8 Ms. Crumbliss, just tell me you don't have an
9 opinion. You don't have an opinion necessary and we
10 don't know protect for public answer it and go on.

11 MS. CRUMBLISS: I don't know if they're
12 absolutely required, but we do meet the guidelines
13 of the high-speed rail program.

14 JUDGE DUGGAN: All right. Looks like that's the
15 best answer you are going to get, Mr. Dearth. Why
16 don't you move on.

17 MR. DEARTH: Thank you, Judge.

18 MR. DEARTH: Q. Mr. Venice, you indicated during
19 examination of devices called of the ITCS system; is
20 that correct?

21 A. Yes.

22 Q. Who would be responsible for the maintenance

1 of these systems?

2 A. Systems are maintained by Union Pacific
3 Railroad to my knowledge. They're still being
4 tested at this point.

5 Q. With regard to all safety warning devices
6 depicted in the Union Pacific Group Exhibit 1 would
7 they be under the maintenance of the Union Pacific?

8 A. Which page are you referring to, sir?

9 Q. I indicated -- we can go through page by
10 page. I indicated the group exhibit itself as a
11 whole.

12 A. The answer is, no, we wouldn't maintain
13 things like roadway signs or pavement markings.

14 Q. Very good.

15 With regard to Page 2 and Union
16 Pacific Group Exhibit 1, it indicates both the
17 vehicular crossing gates, as well as pedestrian
18 crossing gates; is that correct?

19 A. I believe so, yes.

20 Q. Would those be under the maintenance
21 obligation of the Union Pacific?

22 A. The Union Pacific would maintain the grade

1 crossing warning devices, including the gates.

2 Q. And that's true with regard to, as depicted
3 on Page 2, Washington Street?

4 A. Washington Street, yes.

5 Q. Is that true with regard to Jackson Street?

6 A. That is correct.

7 Q. Is that true with regard to Division Street?

8 A. It is, sir.

9 Q. Mr. Venice, you indicated you are in favor
10 of this project; is that correct?

11 A. We are in support of the high-speed rail
12 project.

13 Q. You had an opportunity --

14 EXAMINATION

15 BY

16 JUDGE DUGGAN:

17 Q. I don't think that -- this is a pedestrian
18 crossing high-speed rail. This is not -- he didn't
19 ask you about the high-speed rail as a general
20 proposition, Mr. Venice. He asked you in support of
21 this project, which is subject to this petition here
22 today.

1 So, once again, you stated your
2 position. You stated your support for the project.
3 Presumably you are responding to the petition
4 regarding the crosswalk, so you already said you
5 were in support of the petition for the crosswalk.

6 Now he asked you again and you
7 qualified it which creates a real mess when people
8 do that. So when you said you were in favor of it
9 and you supported it, Mr. Venice, were you referring
10 to the request for relief in the petition?

11 A. Yes. We're not here to fight against the
12 petition. We support it.

13 Q. Okay. You are not just not fighting it, you
14 are supposing it. Let's not make it more
15 complicated than it has to be.

16 That's your answer. Move on,
17 Mr. Dearth.

18 MR. DEARTH: Thank you, Judge.

19 CROSS EXAMINATION (continued)

20 BY

21 MR. DEARTH:

22 Q. Mr. Venice, during some questioning by Judge

1 Duggan, you referred to an administrative code
2 indicating that the rail carriers are to perform
3 maintenance 24-inches outside of the outer rails; is
4 that correct?

5 A. That is my understanding.

6 Q. Are you familiar with that administrative
7 code section?

8 A. I don't know it offhand, no.

9 Q. But you testified to it; is that correct?

10 A. That is what I said, yes.

11 Q. Are you aware -- or let me rephrase. The
12 administrative code section that you referenced does
13 that give a maximum amount of maintenance
14 responsibility for rail carriers or a minimum
15 amount?

16 JUDGE DUGGAN: I'm not going to have Mr. Venice
17 interpret the administrative rules, so I'm going to
18 object to the question and tell him not to answer
19 that. The rule is the rule. You can argue it if
20 you want to argue it.

21 MR. DEARTH: The village has no further
22 questions. Thank you, Judge.

1 JUDGE DUGGAN: Very good.

2 Now, okay, Mr. Vercruysse, do you have
3 questions of Mr. Venice?

4 MR. VERCRUYSSSE: Yes, your Honor, just for the
5 purposes of the draft order that the parties will
6 work on. I would like just to clarify two points to
7 make sure we are consistent with the record and this
8 draft.

9 CROSS EXAMINATION

10 BY

11 MR. VERCRUYSSSE:

12 Q. Mr. Venice, you had testified relative to
13 what direction the streets traverse, and if I could
14 direct your attention to UP's exhibit, Group Exhibit
15 1, Page 2, please, this would be for the Washington
16 Street crossing.

17 Looking at the exhibit, going towards
18 the top of the page is labeled as north, so
19 Washington Street is east/west; is that correct?

20 A. Yes, sir, it is.

21 Q. Thank you.

22 On Page 4 we had Jackson Street and

1 again different here, the arrow for north is to the
2 right, so Jackson Street is a north/south street; is
3 that correct?

4 A. Yes, it is. Thank you for that
5 clarification.

6 Q. The exhibits we had to get the north area
7 squared up.

8 Finally, for Division Street grade
9 crossing -- again, now back to the north area to the
10 top of the page, but Division Street shows to be
11 running in a northwest/southeast direction; is that
12 correct?

13 A. Yes. Thank you very much.

14 Q. Thank you very much.

15 The ITCS system that you had provided
16 is the incremental train control system with the
17 acronym in Mr. Dearth questioning, correct?

18 A. It is.

19 Q. All right. Thank you.

20 And the accident history, none in the
21 last 15 years, that's what you testified; is that
22 correct?

1 A. Yes, I couldn't find anything.

2 Q. Right. And that's consistent with what

3 staff has since the four-quad gates have been

4 installed, which is approximately that time frame;

5 is that your understanding?

6 A. Yes, sir.

7 Q. Thank you.

8 One moment, your Honor. I'm sorry.

9 I'm just trying to make sure I hit each of the

10 points. I think that takes care of it.

11 Mr. Venice, thank you very much.

12 A. Thank you.

13 MR. VERCROYSSSE: Thank you, your Honor.

14 JUDGE DUGGAN: Jennie, do you have any questions

15 of anybody?

16 MS. KUNTZ: I do not have any questions.

17 JUDGE DUGGAN: Great.

18 Ms. Kuntz, you have no questions of

19 Mr. Venice or Ms. Crumbliss?

20 MS. KUNTZ: No questions, your Honor.

21 JUDGE DUGGAN: Very good. Thank you.

22 Mr. Dearth, do you have a witness you

1 want to present or -- excuse me. Mr. Shumate, do
2 you have questions or are you resting?

3 MR. SHUMATE: No, I have one other question for
4 Brian Vercruysse.

5 JUDGE DUGGAN: All right. Well, he's not a
6 witness. Why don't you tell me your question.

7 MR. SHUMATE: Well, you had asked if I asked
8 about simultaneous with regard to pedestrian gates
9 with regard to the question and the interlock, and I
10 believe there was a question.

11 JUDGE DUGGAN: Interconnection.

12 MR. SHUMATE: Interconnection.

13 MR. VERCROYSSSE: I think we answered the
14 interconnection question. The question was relative
15 to where the location of the pedestrian bells may
16 be.

17 And, in general, for the locations
18 along the high-speed rail line, we have seen the
19 Union Pacific install the pedestrian bells on top of
20 the vehicular gates, that is adjacent to the
21 sidewalk and it also allows the bell to be up higher
22 which helps with potential maintenance issues and

1 gives a location still of approximately of the
2 sidewalk.

3 JUDGE DUGGAN: I understand the question. Don't
4 answer.

5 MR. VERCROYSSSE: Okay.

6 MR. SHUMATE: No further questions, your Honor.

7 JUDGE DUGGAN: All right. Why don't you explain
8 to me what the point of that was, Mr. Vercroyssse.

9 MR. VERCROYSSSE: There was a question that was
10 asked, and I believe your Honor had asked, as far as
11 where the bells were going to go to Ms. Crumbliss.

12 JUDGE DUGGAN: Oh, the bells. I kept hearing you
13 say belts. Okay. Pedestrian bells. I thought you
14 said they were going to be on each pedestrian gate
15 structure is what Ms. Crumbliss said.

16 MR. VERCROYSSSE: Then she deferred to say she
17 wasn't quite sure, and then who could answer came up
18 and we had deferred or gotten in a different line of
19 questioning, your Honor, so I think that's --

20 JUDGE DUGGAN: Well, did anybody ever answer
21 where the bells are going to be?

22 MR. VERCROYSSSE: Just now was what my intent was,

1 and I can restate it if you like or state it again.

2 JUDGE DUGGAN: You can tell me who said what and
3 then I'll confer with them then. Where are the
4 bells going to be?

5 MR. VERCRUYSSSE: The bells will be on the
6 vehicular gates.

7 JUDGE DUGGAN: Okay. And they aren't there now
8 and they're going to be placed there specifically
9 for the pedestrian crossing?

10 MR. VERCRUYSSSE: Because there are pedestrian
11 crossings there now, there are bells currently in
12 place on those vehicular gates.

13 JUDGE DUGGAN: Okay. So the bells were already
14 put on the vehicular gates in anticipation the
15 pedestrian crossing would eventually be built; is
16 that correct?

17 MR. VERCRUYSSSE: In anticipation of a pedestrian
18 crossing being built or that there was existing
19 sidewalk at a few of these crossings.

20 JUDGE DUGGAN: Well, you mean these three there
21 were already existing sidewalks?

22 MR. VERCRUYSSSE: On Jackson Street on the south

1 side, on the east side, there are on the north side,
2 how ever you want to state, given the layout of the
3 street. There was an existing sidewalk on Division
4 Street. On the south side of the sidewalk there was
5 an existing sidewalk.

6 JUDGE DUGGAN: Now I'm really confused.

7 MR. VERCRUYSSSE: Your Honor --

8 JUDGE DUGGAN: Which one of these? Are you
9 building new sidewalks where there are existing
10 sidewalks?

11 MR. VERCRUYSSSE: Are you rebuilding those
12 sidewalks?

13 MS. CRUMBLISS: We're reconstructing existing
14 sidewalks.

15 JUDGE DUGGAN: Okay. So whatever is there is
16 there. You are going to build there a 5-foot wide
17 concrete sidewalk, correct?

18 MS. CRUMBLISS: Yes, sir.

19 JUDGE DUGGAN: Okay. So the bell is being put
20 there because there are anticipation of existing
21 sidewalks. Okay.

22 JUDGE DUGGAN: Who's qualified to confirm that's

1 correct? Ms. Crumbliss or whom, Mr. Vercruysse?

2 MR. VERCROYSSSE: I believe it would be staff
3 providing a statement, if you like, or do you want
4 me --

5 JUDGE DUGGAN: That's not evidence. We need to
6 do this through witnesses here. Does anybody, does
7 Ms. Chambliss, anybody here, or you do it by
8 stipulation?

9 Mr. Shumate, do you stipulate that the
10 representation made by staff is correct?

11 MR. SHUMATE: Yes, I do.

12 JUDGE DUGGAN: And you stipulate to
13 Ms. Chambliss' representation that there are
14 existing sidewalks in certain places and they ought
15 to be replaced by design as stated in plans
16 stipulated; is that correct?

17 MR. SHUMATE: Yes.

18 JUDGE DUGGAN: Okay. And, Mr. Dearth, do you
19 agree to accept that stipulation as evidence?

20 MR. DEARTH: Yes, your Honor.

21 JUDGE DUGGAN: Ms. Kuntz?

22 MS. KUNTZ: Yes, your Honor.

1 JUDGE DUGGAN: Mr. Vercruysse?

2 MR. VERCRUYSSSE: Yes, your Honor.

3 JUDGE DUGGAN: Very good. All right. Now --

4 okay, Mr. Shumate, do you have more questions of

5 your witness?

6 MR. SHUMATE: No.

7 JUDGE DUGGAN: Very good.

8 Mr. Dearth, do you have any witnesses?

9 MR. DEARTH: The village does, your Honor.

10 JUDGE DUGGAN: Okay. It's 20 till 5. Can you

11 give me a brief thumb nail of what he's going to

12 testify?

13 MR. DEARTH: Mr. Hansen, who is the village

14 engineer, will testify as to his occupation, his

15 current position with the village, his familiarity

16 with the village, his indication that these

17 pedestrian crossing safety treatments are necessary

18 to preserve and promote the safety and convenience

19 of the public.

20 JUDGE DUGGAN: All right. Well, why don't we do

21 that like in a real quick thumb nail, just like he

22 did it, so he's already sworn. Go ahead and do it.

1 RYAN HANSEN,
2 called as a witness herein, having been first duly
3 sworn, was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY

6 MR. DEARTH:

7 Q. Could you state your name for the record,
8 please, sir.

9 A. Ryan Hansen, R-Y-A-N H-A-N-S-E-N.

10 Q. Mr. Hansen, with whom do you work for?

11 A. I'm employed by Chamlin & Associates.

12 Q. And what is Chamlin & Associates?

13 A. We're a consulting engineering firm
14 representing multiple municipalities in the
15 villages.

16 Q. Does Chamlin & Associates offer engineering
17 expertise to the Village of Gardner?

18 A. Yes, we do.

19 Q. And can you give a brief description of your
20 educational -- graduate educational licensing, and
21 affiliations, and associations of yourself?

22 A. I have a Bachelor of Science Degree in Civil

1 Engineering from the University of Illinois, and I'm
2 a licensed professional engineer in Illinois.

3 Q. Are you part of any associations?

4 A. American Public Works Association, Illinois
5 Society of Professional Engineers.

6 Q. What are some of your duties and
7 responsibilities with regard to the Village of
8 Gardner as the village engineer?

9 A. Every day needs, day-to-day, primarily my
10 point of contact for the village.

11 Q. How long have you been the village engineer?

12 A. Chamlin & Associates has been involved with
13 the Village of Gardner for over 50 years.

14 Q. And have you had any prior high-speed rail
15 engineering experience?

16 A. Acting as village engineer for the Village
17 of Dwight, I've been involved with multiple at-grade
18 crossings and also a high-speed rail train depot
19 that's been constructed.

20 Q. Are you familiar with the village's
21 petition, specifically T16-0069, is that
22 correct --

1 A. Yes.

2 Q. -- and previously which has been entered
3 into evidence as Union Pacific Group Exhibit 1?

4 Did you have an opportunity to review
5 that?

6 A. Yes.

7 Q. Are those group of engineering plans
8 something that Chamlin & Associates did not prepare?

9 A. We did not prepare them.

10 Q. You previously indicated you are familiar
11 with the Village of Gardner.

12 A. Yes.

13 Q. Where are the crossings going to be located
14 in reference to the residential and/or business
15 districts?

16 A. So two of the crossings actually bookend the
17 village's central business district and one of them
18 is located generally within that central business
19 district with residential on both sides.

20 Q. Are you familiar with some of the village's
21 town activities, such as town festivals and other
22 traditional activities that occur on an annual basis

1 within the village?

2 A. I'm aware that the village has held town
3 festivals located within that central business
4 district area.

5 Q. And is it safe to say when these festivals
6 are held, they are in close proximity to these three
7 intersections indicated in Union Pacific's Group
8 Exhibit 1?

9 A. Yes.

10 Q. Is there any historic landmarks or
11 historical roadways that are located within the
12 Village of Gardner?

13 A. The old Route 66 historic road is located in
14 and adjacent to the Village of Gardner.

15 Q. Are you aware of any promotion of tourism
16 with regard to this?

17 A. The village does promote that as part of
18 their tourism push.

19 Q. Are you aware of an estimation of the
20 population size of the Village of Gardner?

21 A. I am not. I don't know exactly how many
22 people in the area.

1 Q. Would you say it's under 5,000?

2 A. Yes.

3 Q. With regard to these three crossings, is the
4 housing structure relatively close to them?

5 A. Yes, in direct proximity.

6 Q. Were you present when Mr. Venice testified
7 as to the possible timetable speed of the high-speed
8 rail being 110 miles an hour?

9 A. Yes.

10 Q. Taking that into consideration, as well as
11 the makeup of the village, is it your opinion that
12 the pedestrian crosswalks and pedestrian crossing
13 safety treatments are necessary to preserve and
14 promote the safety and convenience of the public at
15 the Washington Street grade crossing?

16 A. Yes.

17 Q. Same question. However, is it the same
18 opinion with regard to the Division Street grade
19 crossing?

20 A. Yes.

21 Q. And is that the same with regard to the
22 Jackson Street crossing?

1 A. Yes.

2 Q. Were you present when Ms. Crumbliss
3 testified as to the engineering plans provided to
4 the Union Pacific and which were entered into
5 evidence as Union Pacific Group Exhibit 1?

6 A. Yes.

7 Q. You had an opportunity to review those
8 plans?

9 A. Yes.

10 Q. From a design standpoint, do you agree with
11 these plans?

12 A. I think they meet general good engineering
13 design practice.

14 Q. Is that based off her testimony indicating
15 that certain Illinois Department of Transportation
16 right-of-way standards were used?

17 A. Yes.

18 Q. With whom do you understand the cost of all
19 improvements with regard to the intersection of the
20 Washington Street grade crossing, Jackson Street
21 grade crossing, and Division Street grade crossing?

22 A. As I understand, the cost will be borne by

1 the Illinois Department of Transportation and
2 constructed by the Union Pacific Railroad.

3 Q. Are you aware of or have you been aware of
4 any cost of improvements that the village would be
5 obligated to perform with regard to those crossings?

6 A. No.

7 Q. And that includes both improvements inside
8 and outside of the Union Pacific right-of-way?

9 A. That's correct.

10 Q. With regard to the Washington Street grade
11 crossing, there will be new or improved sidewalks
12 installed north of Washington Street; is that
13 correct?

14 A. Yes.

15 Q. And after the Union Pacific performs the
16 work in which IDOT will be responsible for paying,
17 would that connect to the current village sidewalk
18 network?

19 A. Yes.

20 Q. In regard to the Jackson Street crossing,
21 there will be new or improved sidewalks installed on
22 both the east and west side of that particular

1 street, and that is evidence in the Union Pacific
2 exhibit; is that correct?

3 A. Yes.

4 Q. And after the Union Pacific performs the
5 work to which IDOT is responsible for costs, that
6 would thereafter connect with the village's sidewalk
7 network system; is that correct?

8 A. That's correct.

9 Q. And, finally, with regard to the Division
10 Street crossing, the proposed Union Pacific
11 engineering plans entered into evidence indicate new
12 or improved sidewalk to be installed on the south --
13 basically southwest of this street; is that correct?

14 A. That is correct.

15 Q. And after the completion of work by Union
16 Pacific to which IDOT will be responsible for the
17 cost, this would connect with the village's sidewalk
18 network; is that correct?

19 A. That is correct.

20 MR. DEARTH: The village has further questions.

21 JUDGE DUGGAN: Very good.

22

1 EXAMINATION

2 BY

3 JUDGE DUGGAN:

4 Q. Let me ask the witness this question of
5 what the proposal has been. Since UP has stated, as
6 far as they're concerned, they're responsible for
7 the maintenance two feet out from each side of the
8 track, presumably then the plan there was if the
9 village would be responsible for the maintenance of
10 the sidewalk outside that, although UP would be
11 responsible for its own structures and fencing, et
12 cetera, does the Village of Gardner have a position
13 on whether it would agree to be responsible for
14 maintenance of the sidewalk outside the two feet
15 from inside of the track, Mr. Dearth?

16 MR. DEARTH: Judge, with regards to the agreement
17 with regard to maintenance, the village's position
18 with regard to the administrative code that
19 Mr. Venice has indicated, the village's position is
20 that indicates a minimum in which the rail carriers
21 to maintain.

22 JUDGE DUGGAN: Okay. Okay. Let's stop right

1 there. If you are making an argument that the
2 Commission could order them to -- to order UP to
3 maintain more of the pedestrian path, that's so -- I
4 thought we had talked about this before we went on
5 the record, and I know if we talked more about
6 Braceville, I thought that included Gardner in the
7 discussion, to some extent, so I'm going to ask the
8 question a different way.

9 Does the Village of Gardner agree to
10 pay for the maintenance or to be responsible and pay
11 for the costs of the maintenance for the pedestrian
12 path outside the two feet of crossing, Mr. Dearth?

13 MR. DEARTH: Judge, with costs, are you
14 specifically referring to costs of the maintenance
15 and not the improvement?

16 JUDGE DUGGAN: I'm not sure what the distinction
17 is. We already said IDOT is going to pay for the
18 installation of the path, so now we are talking
19 after it's installed and needs to be maintained and
20 someone needs to maintain it, someone needs to pay
21 for the maintenance.

22 The question is does the Village of

1 Gardner agree to pay for the maintenance and the
2 costs, if that was a clear question. If it's not a
3 clear question, you tell me.

4 MR. DEARTH: Well, Judge, that was a clear
5 question. The village's position would be that the
6 reading of the Illinois Administrative Code would
7 indicate that Union Pacific would be responsible for
8 a minimum of 24 inches. I believe your Honor is
9 correct in that --

10 JUDGE DUGGAN: That still wasn't my question. My
11 question is does the village agree to be responsible
12 for the maintenance and the costs thereof of the
13 pedestrian paths outside of two feet of the rails?

14 If your answer is you don't know, tell
15 me you don't know. The question is maybe or maybe
16 not, I don't know, tell me the answer, but if you
17 want to argue about the 1535 section with regard to
18 what the railroad is responsible for, according to
19 the administrative code, that's exactly what it
20 says. It says what it says.

21 Now my question is is the village
22 agreeing to be responsible for the maintenance costs

1 thereof of each pedestrian path outside two feet
2 from the pedestrian rail?

3 MR. DEARTH: Judge, if your Honor is going the
4 take a position that the Administrative Code would
5 indicate that that is what the Union Pacific, i.e.,
6 the rail carrier, is responsible for is the minimum
7 24 inches, then in that case, and specifically in
8 that case, the village would be in agreement.

9 However, I think the Court certainly
10 has within its authority and its power to enforce
11 maintenance obligations to rail carriers outside of
12 the 24-inch buffer zone. By buffer zone --

13 JUDGE DUGGAN: Are you saying that the village --
14 the village would be agreeable only if the
15 Commission takes the position that they cannot order
16 the UP to take responsibility for maintenance?

17 MR. DEARTH: No, Judge. My answer with regard to
18 that was --

19 JUDGE DUGGAN: If you are going to condition your
20 answer, tell me what the condition is.

21 MR. DEARTH: Judge, I believe what you are -- I
22 believe if you are trying to get an agreement, I

1 think the Court certainly can have the authority to
2 extend it out to 24 inches beyond what 1535.206
3 mandates rail carriers to perform.

4 JUDGE DUGGAN: What's your answer?

5 MR. DEARTH: Judge, the answer would be, and
6 it's -- as we previously discussed when weighing the
7 costs of maintenance compared to the necessity with
8 regard to the installation of these pedestrian
9 treatments, as evidenced by the village engineer's
10 testimony, the village would be in agreement with
11 regard to pedestrian crossings for the aspect of the
12 necessity to promote and preserve safety and
13 convenience for the public, including the citizens
14 of the --

15 JUDGE DUGGAN: You lost me. How about this. Let
16 me ask you a question and you can condition it on as
17 few words as need to be.

18 Is the village agreeing to be
19 responsible for the maintenance and the costs
20 thereof of pedestrian paths which are the subject of
21 this petition to all points outside two feet from
22 each rail?

1 MR. DEARTH: Judge, are you suggesting I give you
2 a yes and no answer at this point in time?

3 JUDGE DUGGAN: You either say yes, you say no, or
4 you tell me why you can't say yes or no.

5 MR. DEARTH: Yes.

6 JUDGE DUGGAN: Very good. Thank you.

7 Now does anyone have anything further?
8 Mr. Shumate?

9 MR. SHUMATE: No, your Honor.

10 JUDGE DUGGAN: Mr. Dearth?

11 MR. DEARTH: Judge, the people -- I'm sorry. The
12 village would be just requesting testimony from IDOT
13 to confirm costs with regard to all improvements
14 identified.

15 JUDGE DUGGAN: I didn't understand. One more
16 time, please.

17 MR. DEARTH: Judge, the village would be seeking
18 testimony from the Illinois Department of
19 Transportation indicating they would be responsible
20 for all costs of improvements identified in Union
21 Pacific Exhibit Group 1.

22 JUDGE DUGGAN: Ms. Kuntz, do you -- on behalf of

1 IDOT, are you authorized and do you agree that IDOT
2 will pay for all expenses of the installations of
3 the -- and design and installation associated with
4 the paths, including the warning devices, and the
5 fencing, and any additions to the crossing necessary
6 to comply with the design?

7 MR. KUNTZ: Yes, your Honor.

8 JUDGE DUGGAN: Is that close enough?

9 MR. DEARTH: Thank you, Judge.

10 JUDGE DUGGAN: Very good. Anything else,
11 Mr. Dearth?

12 MR. DEARTH: Not at this time.

13 MR. VERCROYSEE: Your Honor, may I ask a couple
14 of follow-up questions?

15 JUDGE DUGGAN: Sure.

16 MR. VERCROYSSSE: I will be very quick, and this
17 is just again following along with the order.

18 RYAN HANSEN,
19 called as a witness herein having been previously
20 duly sworn, resumed the stand and testified
21 further as follows:

22

1 CROSS EXAMINATION

2 BY

3 MR. VERCROYSSSE:

4 Q. Mr. Hansen, Washington Street do you know
5 the speed limit for the roadway?

6 A. No, I do not.

7 Q. Do you know the speed limit for Jackson or
8 Division Street?

9 A. Only as listed on the plans which is
10 30 miles an hour.

11 Q. Thank you.

12 Do you know as far as the average
13 annual daily traffic count at any of the crossings?

14 A. We do not have that information.

15 Q. Thank you very much.

16 No further questions, your Honor.

17 JUDGE DUGGAN: Okay. Go back around here,
18 Mr. Dearth, anything further?

19 MR. DEARTH: Not at this time, your Honor.

20 JUDGE DUGGAN: Well, the time is drawing to a
21 close.

22 Mr. Shumate?

1 MR. SHUMATE: Nothing further, your Honor.

2 JUDGE DUGGAN: Ms. Kuntz?

3 MS. KUNTZ: No, your Honor.

4 JUDGE DUGGAN: Mr. Vercruysse?

5 MR. VERCRUYSSSE: Quick comments on those, and I
6 can be very quick about it.

7 JUDGE DUGGAN: Sure.

8 MR. VERCRUYSSSE: Our latest records that we have
9 with Commission staff show at the Washington Street
10 grade crossing the rail speed is 30-miles per hour
11 with 700 vehicles per day.

12 At the Jackson Street grade crossing
13 we also have 30 miles per hour for the speed limit
14 and an annual daily traffic count average of 1000
15 vehicles per day.

16 Division Street we have 150 vehicles
17 per day as the average annual daily traffic count
18 and a speed limit also of 30-miles per hour.

19 After that, staff supports the
20 petition, agrees that the pedestrian treatments are
21 necessary to promote public safety, and we have
22 worked on a draft order that we will circulate as a

1 post revision to the hearing. I'll bring it to the
2 parties and then we will submit it to your Honor if
3 that's to your liking.

4 JUDGE DUGGAN: Very good. Now those average
5 daily traffic reports were from where?

6 MR. VERCRUYSSSE: Those were from our database
7 that we have internally and then that database is
8 derived from IDOT's latest traffic counts that they
9 have.

10 JUDGE DUGGAN: Okay. So the Illinois Commerce
11 Commission database derived from IDOT's database,
12 correct?

13 MR. VERCRUYSSSE: That's correct. We share
14 jointly some of the information.

15 JUDGE DUGGAN: Do you have any idea how current
16 that information is?

17 MR. VERCRUYSSSE: Your Honor, I do not at this
18 point.

19 JUDGE DUGGAN: Okay. So all we can say is the
20 latest information available is as you recited,
21 correct?

22 MR. VERCRUYSSSE: That's correct.

1 JUDGE DUGGAN: Okay. Does -- you are asking that
2 we take administrative notice of the ICC database
3 based upon the IDOT database, that that's the latest
4 information available; is that what you like?

5 MR. VERCRUYSSSE: That's what I would like, yes,
6 your Honor.

7 JUDGE DUGGAN: Mr. Shumate, do you have any
8 problems taking -- any objection to taking
9 administrative notice of that information as
10 qualified?

11 MR. SHUMATE: No objection, your Honor.

12 JUDGE DUGGAN: Mr. Dearth?

13 MR. DEARTH: No objection, your Honor.

14 JUDGE DUGGAN: MS. Kuntz?

15 MR. KUNTZ: No objection.

16 JUDGE DUGGAN: Okay. And each of you agree to
17 waive any other requirements that required advance
18 notice of -- the request for advance of
19 administrative notice request; is that correct,
20 Mr. Shumate?

21 MR. SHUMATE: Yes, it is, Your Honor.

22 JUDGE DUGGAN: Mr. Dearth?

1 MR. DEARTH: That's correct, Judge.

2 JUDGE DUGGAN: And, Ms. Kuntz?

3 MS. KUNTZ: Yes, your Honor.

4 JUDGE DUGGAN: And, Mr. Vercruysse, you offered

5 it. You would waive any objection to prior

6 procedures and prior notice regarding requests for

7 administrative notice, correct?

8 MR. VERCRUYSSSE: Correct.

9 JUDGE DUGGAN: Very good. All right. Then, in

10 fact, I will take administrative notice based on

11 waivers of objections and acceptance thereof by

12 everyone, and I'm going to go around one more time.

13 Mr. Dearth, anything else?

14 MR. DEARTH: Nothing from the village, your

15 Honor.

16 JUDGE DUGGAN: Mr. Shumate?

17 MR. SHUMATE: Nothing, your Honor.

18 JUDGE DUGGAN: Ms. Kuntz?

19 MS. KUNTZ: No.

20 JUDGE DUGGAN: Mr. Vercruysse?

21 MR. VERCRUYSSSE: Nothing, your Honor. Thank you.

22 JUDGE DUGGAN: Very good. All right. Thank you.

1 The record is marked heard and taken.

2 HEARD AND TAKEN.

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